

CALIFORNIA GENERAL PROVISIONS
FOR
WESTERN STATES CONTRACTING ALLIANCE
W.W. GRAINGER, INC.
GRAINGER INDUSTRIAL SUPPLY DIVISION

Exhibit 1

1. **APPLICABLE LAW:** This contract shall be governed by and shall be interpreted in accordance with the laws of the State of California; venue of any action brought with regard to this contract shall be in Sacramento County, Sacramento, California. The United Nations Convention on Contracts for the International Sale of Goods shall not apply to this contract.
2. **ORDER OF PRECEDENCE:** In the event of any inconsistency between this Participating Addendum and Master Price Agreement No. 6416, the following order of precedence shall apply:
 - a) excuted participating addendum(s);
 - b) the terms and conditions of the Master Price Agreement;
 - c) exhibits to the Master Price Agreement;
 - d) the list of products and services contained in the purchase order;
 - e) the Request for Information (or similar) document; and
 - f) Contractor's Response to the Request for Information (or similar document).
3. **TERMINATION FOR NON-APPROPRIATION OF FUNDS**
 - a) If the term of this contract extends into fiscal years subsequent to that in which it is approved, such continuation of the contract is contingent on the appropriation of funds for such purpose by the Legislature. If funds to effect such continued payment are not appropriated, contractor agrees to take back any affected goods furnished under this contract, terminate any services supplied to the State under this contract, and relieve the State of any further obligation therefor.
 - b) STATE AGREES THAT IF PARAGRAPH (a) ABOVE IS INVOKED, GOODS SHALL BE RETURNED TO THE CONTRACTOR IN SUBSTANTIALLY THE SAME CONDITION IN WHICH DELIVERED TO THE STATE, SUBJECT TO NORMAL WEAR AND TEAR. STATE FURTHER AGREES TO PAY FOR PACKING, CRATING, TRANSPORTATION TO CONTRACTOR'S NEAREST FACILITY AND FOR REIMBURSEMENT TO THE CONTRACTOR FOR EXPENSES INCURRED FOR THEIR ASSISTANCE IN SUCH PACKING AND CRATING.
4. **TERMINATION FOR THE CONVENIENCE OF THE STATE-**
 - a) The State may terminate performance of work under this contract for its convenience in whole or, from time to time, in part, if the Department of General Services, Deputy Director, Procurement Division, or designee, determines that a termination is in the State's interest. The Department of General Services, Deputy Director, Procurement Division, or designee, shall terminate by delivering to the contractor a Notice of Termination specifying the extent of termination and the effective date thereof. The parties agree that, as to the terminated portion of the contract, the contract shall be deemed to remain in effect until such time as the termination settlement, if any, is concluded and the contract shall not be void.
 - b) After receipt of a Notice of Termination, and except as directed by the State, the contractor shall immediately proceed with the following obligations, as applicable, regardless of any delay in determining or adjusting any amounts due under this clause. The Contractor shall:
 - i) Stop work as specified in the Notice of Termination.
 - ii) Place no further subcontracts for materials, services, or facilities, except as necessary to complete the continued portion of the contract.
 - iii) Terminate all subcontracts to the extent they relate to the work terminated.
- iv) Settle all outstanding liabilities and termination settlement proposals arising from the termination of subcontracts; the approval or ratification of which will be final for purposes of this clause.
5. **REQUIRED PAYMENT DATE:** Payment will be made in accordance with the provisions of the California Prompt Payment Act, Government Code Section 927 et. seq. Unless expressly exempted by statute, the Act requires state agencies to pay properly submitted, undisputed invoices not more than 45 days after (i) the date of acceptance of goods or performance of services; or (ii) receipt of an undisputed invoice, whichever is later.
6. **EXAMINATION AND AUDIT:** Contractor agrees that the State, or its designated representative shall have the right to review and copy any records and supporting documentation pertaining to performance of this contract. Contractor agrees to maintain such records for possible audit for a minimum of three (3) years after final payment, unless a longer period of records retention is stipulated. Contractor agrees to allow the auditor(s) access to such records during normal business hours and to allow interviews of any employees or others who might reasonably have information related to such records. Further, contractor agrees to include a similar right of the State to audit records and interview staff in any subcontract related to performance of this contract.
7. **PRIORITY HIRING CONSIDERATIONS:** If this contract includes services in excess of \$200,000, the contractor shall give priority consideration in filling vacancies in positions funded by the contract to qualified recipients of aid under Welfare and Institutions Code Section 11200 in accordance with PCC Section 10353.
8. **COVENANT AGAINST GRATUITIES:** The contractor warrants that no gratuities (in the form of entertainment, gifts, or otherwise) were offered or given by the contractor, or any agent or representative of the contractor, to any officer or employee of the State with a view toward securing the contract or securing favorable treatment with respect to any determinations concerning the performance of the contract. For breach or violation of this warranty, the State shall have the right to terminate the contract, either in whole or in part, and any loss or damage sustained by the State in procuring on the open market any items which contractor agreed to supply shall be borne and paid for by the contractor. The rights and remedies of the State provided in this clause shall not be exclusive and are in addition to any other rights and remedies provided by law or in equity.
9. **NONDISCRIMINATION CLAUSE:**
 - a) During the performance of this contract, contractor and its subcontractors shall not unlawfully discriminate, harass or allow harassment, against any employee or applicant for employment because of sex, sexual orientation, race, color, ancestry, religious creed, national origin, disability (including HIV and AIDS), medical condition (cancer), age, marital status, and denial of family care leave. Contractor and subcontractors shall insure that the evaluation and treatment of their employees and applicants for employment are free from such discrimination and harassment. Contractor and subcontractors shall comply with the provisions of the Fair Employment and Housing Act (Government Code, Section 12990 et seq.) and the applicable regulations promulgated thereunder (California Code of Regulations, Title 2, Section 7285.0 et seq.). The applicable regulations of the Fair Employment and Housing Commission implementing Government Code Section 12990 (a-f), set forth in Chapter 5

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of Division 4 of Title 2 of the California Code of Regulations are incorporated into this contract by reference and made a part hereof as if set forth in full. Contractor and its subcontractors shall give written notice of their obligations under this clause to labor organizations with which they have a collective bargaining or other agreement.

- b) The contractor shall include the nondiscrimination and compliance provisions of this clause in all subcontracts to perform work under the contract.

10. NATIONAL LABOR RELATIONS BOARD CERTIFICATION:

Contractor swears under penalty of perjury that no more than one final, unappealable finding of contempt of court by a federal court has been issued against the contractor within the immediately preceding two-year period because of the contractor's failure to comply with an order of the National Labor Relations Board. This provision is required by, and shall be construed in accordance with, PCC Section 10296.

11. ASSIGNMENT OF ANTITRUST ACTIONS: Pursuant to Government Code Sections 4552, 4553, and 4554, the following provisions are incorporated herein:

- a) In submitting a bid to the State, the supplier offers and agrees that if the bid is accepted, it will assign to the State all rights, title, and interest in and to all causes of action it may have under Section 4 of the Clayton Act (15 U.S.C. 15) or under the Cartwright Act (Chapter 2, commencing with Section 16700, of Part 2 of Division 7 of the Business and Professions Code), arising from purchases of goods, material, or services by the supplier for sale to the State pursuant to the solicitation. Such assignment shall be made and become effective at the time the State tenders final payment to the supplier.
- b) If the State receives, either through judgment or settlement, a monetary recovery for a cause of action assigned under this chapter, the assignor shall be entitled to receive reimbursement for actual legal costs incurred and may, upon demand, recover from the State any portion of the recovery, including treble damages, attributable to overcharges that were paid by the assignor but were not paid by the State as part of the bid price, less the expenses incurred in obtaining that portion of the recovery.
- c) Upon demand in writing by the assignor, the assignee shall, within one year from such demand, reassign the cause of action assigned under this part if the assignor has been or may have been injured by the violation of law for which the cause of action arose and
- i) the assignee has not been injured thereby, or
 - ii) the assignee declines to file a court action for the cause of action.

12. DRUG-FREE WORKPLACE CERTIFICATION: The contractor certifies under penalty of perjury under the laws of the State of California that the contractor will comply with the requirements of the Drug-Free Workplace Act of 1990 (Government Code Section 8350 et seq.) and will provide a drug-free workplace by taking the following actions:

- a) Publish a statement notifying employees that unlawful manufacture, distribution, dispensation, possession, or use of a controlled substance is prohibited and specifying actions to be taken against employees for violations, as required by Government Code Section 8355(a).
- b) Establish a Drug-Free Awareness Program as required by Government Code Section 8355(b) to inform employees about all of the following:
- i) the dangers of drug abuse in the workplace;

- ii) the person's or organization's policy of maintaining a drug-free workplace;
- iii) any available counseling, rehabilitation and employee assistance programs; and,
- iv) penalties that may be imposed upon employees for drug abuse violations.

- c) Provide, as required by Government Code Section 8355(c), that every employee who works on the proposed or resulting contract:

- i) will receive a copy of the company's drug-free policy statement; and,
- ii) will agree to abide by the terms of the company's statement as a condition of employment on the contract.

13. FOUR-DIGIT DATE COMPLIANCE: Contractor warrants that it will provide only Four-Digit Date Compliant (as defined below) Deliverables and/or services to the State. "Four Digit Date Compliant" Deliverables and services can accurately process, calculate, compare, and sequence date data, including without limitation date data arising out of or relating to leap years and changes in centuries. This warranty and representation is subject to the warranty terms and conditions of this Contract and does not limit the generality of warranty obligations set forth elsewhere herein.

14. SWEAT CODE OF CONDUCT:

- a) Contractor declares under penalty of perjury that no equipment, materials, or supplies furnished to the State pursuant to the contract have been produced in whole or in part by sweatshop labor, forced labor, convict labor, indentured labor under penal sanction, abusive forms of child labor or exploitation of children in sweatshop labor, or with the benefit of sweatshop labor, forced labor, convict labor, indentured labor under penal sanction, abusive forms of child labor or exploitation of children in sweatshop labor. Contractor further declares under penalty of perjury that they adhere to the Sweatfree Code of Conduct as set forth on the California Department of Industrial Relations website located at www.dir.ca.gov, and Public Contract Code Section 6108.
- b) Contractor agrees to cooperate fully in providing reasonable access to its records, documents, agents or employees, or premises if reasonably required by authorized officials of the State, the Department of Industrial Relations, or the Department of Justice to determine Contractor's compliance with the requirements under paragraph (a).

15. RECYCLING: Contractor hereby certifies under penalty of perjury that a percentage (0% to 100%) of the materials, goods, supplies offered, or products used in the performance of this contract meet or exceed the minimum percentage of recycled material as defined in PCC Sections 12161 and 12200.

16. CHILD SUPPORT COMPLIANCE ACT: For any contract in excess of \$100,000, the contractor acknowledges in accordance with PCC Section 7110, that:

- a) The contractor recognizes the importance of child and family support obligations and shall fully comply with all applicable state and federal laws relating to child and family support enforcement, including, but not limited to, disclosure of information and compliance with earnings assignment orders, as provided in Chapter 8 (commencing with Section 5200) of Part 5 of Division 9 of the Family Code; and
- b) The contractor, to the best of its knowledge is fully complying with the earnings assignment orders of all employees and is providing the names of all new employees to the New Hire

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Registry maintained by the California Employment Development Department.

- 17. AMERICANS WITH DISABILITIES ACT:** Contractor assures the State that Contractor complies with the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq).
- 18. UNION ACTIVITIES:** For all contracts, , except fixed price contracts of \$50,000 or less, the Contractor acknowledges that: by signing this agreement, Contractor hereby acknowledges the applicability of Government Code Section 16645 through Section 16649 to this agreement and agrees to the following:
- a) Contractor will not assist, promote or deter union organizing by employees performing work on a state service contract, including a public works contract.
 - b) No state funds received under this agreement will be used to assist, promote or deter union organizing.
 - c) Contractor will not, for any business conducted under this agreement, use any state property to hold meetings with employees or supervisors, if the purpose of such meetings is to assist, promote or deter union organizing, unless the state property is equally available to the general public for holding meetings.
 - d) If Contractor incurs costs, or makes expenditures to assist, promote or deter union organizing, Contractor will maintain records sufficient to show that no reimbursement from state funds has been sought for these costs, and that Contractor shall provide those records to the Attorney General upon request.
- 19. ELECTRONIC WASTE RECYCLING ACT OF 2003:**
The Contractor certifies that it complies with the requirements of the Electronic Waste Recycling Act of 2003, Chapter 8.5, Part 3 of Division 30, commencing with Section 42460 of the Public Resources Code, relating to hazardous and solid waste. Contractor shall maintain documentation and provide reasonable access to its records and documents that evidence compliance.
- 20. USE TAX COLLECTION:**
In accordance with PCC Section 10295.1, Contractor certifies that it complies with the requirements of Section 7101 of the Revenue and Taxation Code. Contractor further certifies that it will immediately advise State of any change in its retailer's seller's permit or certification of registration or applicable affiliate's seller's permit or certificate of registration as described in subdivision (a) of PCC Section 10295.1.
- 21. EXPATRIATE CORPORATIONS:**
Contractor hereby declares that it is not an expatriate corporation or subsidiary of an expatriate corporation within the meaning of PCC Sections 10286 and 10286.1, and is eligible to contract with the State.
- 22. DOMESTIC PARTNERS:**
Commencing on July 1, 2004, Contractor certifies that it is in compliance with the applicable provisions of PCC Section 10295.3 with regard to benefits for domestic partners.